

MINUTES OF THE CITY COUNCIL
CITY OF AUSTIN, TEXAS
Special Called Council Meeting
August 17, 1981
4:00 P.M.
Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers
Deuser, Duncan, Goodman, Mullen, Urdy

Absent: None

Mayor McClellan stated action today will be to direct the staff to come back with ordinances relating to the annexation proceedings if Council so desires. Today's purpose for the meeting is for the public hearing. She asked Mr. Lillie, Director of Planning, to make a presentation.

The following tracts of land were under consideration by the Council for annexation and to direct the administration to institute annexation proceedings and annex the following:

Milwood Section 8 (68.96 acres) and other acreage requested by the City (45.30 acres). C7a-80-015

Pheasant Run Section 1 (49.43 acres) and other acreage requested by the City (22.57 acres). C7a-81-018

Westcreek Ph. III (19.77 acres) and other acreage requested by the City (17.23 acres). C7a-81-001

Brodie Tract (79.77 acres). C7a-81-002

Maple Run Section 3 and Maple Run Section 4 (98.69 acres). C7a-81-003

Milwood Section 10 (50.37 acres). C7a-81-004

Acreage out of J.C. Brook Survey #59 and John Applegait Survey #58 (64.94 acres) and other acreage requested by the City (2.09 acres). C7a-80-005

Mr. Lillie stated, "We have seven applications which have been filed by owners of property. They were filed as early as fall of last year and have not been processed due to the Municipal Election in April and then the tentative scheduling by Council of the Bond Election in June. We are bringing them to your attention now to clear the books of private requests prior to the enactment or enforcement of the new state statutes regarding annexation and it is believed that these seven property owners have a reasonable expectation to have the City proceed with their request. He then showed, by map, where the areas are. ... The seven requests include 431 acres. The City has added 87 acres to it where "doughnut holes" were created by requests by the developer. Three requests to the north of the City and four to the south and southwest all within the Austin Independent School District. Two of them are in Growth Management Area III, four are in Growth Management Area IV and one on 290, southwest, is in Growth Management Area IV and V. There are about 160 people living in the seven areas. 110 of them reside in the West Creek application on 290. These are homes that have been there a good many years and are in the area which was added by the Planning Department. This includes about 50 homes. Of the seven areas we anticipate that five will be residential in character and density. One will be commercial, that is the Brodie Tract on south Lamar and Ben White and one will be industrial, that's on Kramer Lane. The Brodie tract was annexed last year under a limited purpose annexation at the time the City Council annexed Loop 360. The Planning Commission considered these applications in July and suggested the City not proceed with the private requests because the Commission does not have the full fiscal data in hand. It is our understanding the fiscal notes will be prepared and will be prepared for your review prior to the ordinance readings on August 27th."

Councilmember Duncan asked, "What is the cost saving to developers concerning the water and wastewater extension if we annexed them within a year. What is the difference if we annex a subdivision now before it builds out and if we annex a subdivision after it is pretty much built out?" Mr. Lillie referred him to the information provided in his packet which contain the costs. He said Council does have some prerogative in the approach main policy and oversize policy with respect to the timing of annexation that gives the benefit to the City with respect to fiscal requirements. Mr. Daron Butler, Assistant City Manager, said there is a map in the packet with a chart which outlines the annexation locations and reminded Council

August 17, 1981

CITY OF AUSTIN, TEXAS

that under the policy the only difference in cost allocation between the City and the developer is in the area of wastewater in terms of the annexations that will proceed. In water there is no effective relationship between the date of annexation and participation either in oversizing of approach mains. The area cost difference is in wastewater. He cited the Brodie tract where he said there is no difference whatsoever because the cost of extending water and sewer to that line has been requested under administrative approval, therefore those costs belong exclusively to the developer and not to the City at all.

Mr. Butler continued by saying these annexations are the last ones coming under the old cost participation policy. The first one was initiated in October of 1980 and the last one was March 1981. They were all processed under previous policies in existence at that time..both in terms of the annexation law and the extension of water and sewer service to these properties.

Councilmember Deuser asked why it is in the best interest of the City to act upon these annexations prior to the beginning of the new state law. Mr. Lillie told him all of the field notes are complete and had to be published in this public hearing. August 31 is the date when the new state statute goes into effect regarding annexation and it was felt these applications which were pending for a number of months should proceed prior to the enactment of that statute. All of these annexations, Mr. Lillie said, are adjacent to the City limit line and will all be served by the City utility system, they all comply with the City subdivision ordinance and are ready to proceed to development. Generally the fiscal notes on this type of annexation is that it is not a negative fiscal position the City places itself in with these types of requests. Mr. Lillie stated, "There is not an acceleration here. All of the public hearings and notices and publications have been made according to the statute and we are proceeding to complete the work prior to that enactment. Once August 31 gets here the City has a whole new procedural requirement with respect to annexation. The Council has to hold a public hearing in the area, a service plan has to be developed not only for operating budget but for capital improvements as well and there is a great deal more procedural requirements under the new statute. It is because these are ready to go and have been ready to go for a number of months, that there wasn't any necessity in having them held over until the new statutory requirements go into effect." Mr. Lillie said there has been a request to withdraw the last request concerning acreage out of the J.D. Brook Survey.

Motion

Councilmember Mullen moved that the Council close the public hearing and allow withdrawal of acreage out of J.C. Brook Survey #59 and John Apple-gait #58 (64.94 acres) and other acreage requested by the City (2.09 acres). C7a-80-005 The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman, Mullen

Noes: None

Not in Council Chamber when roll was called: Councilmember Urdy

Motion

Councilmember Mullen moved that the Council close the public hearing and directed administration to institute annexation proceedings to annex the following: Milwood Section 8 (68.96 acres) and other acreage requested by the City (45.30 acres). C7a-80-015 The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman, Mullen, Mayor McClellan

Noes: None

Not in Council Chambers when roll was called: Councilmember Urdy

Bring back fiscal notes.

Councilmember Mullen asked what the bottom line will be. Mr. Butler told him this is a request to close the public hearing and fiscal notes will be prepared by the end of this week. Councilmember Duncan asked for the bottom line on the water and wastewater participation.

John McPhaul, developer, appeared before Council and said he would like to have the information at the same time. Mayor McClellan told him he will receive it. Mr. McPhaul is the developer of Westcreek.

No one appeared to speak before Council on any of the following five annexation for which motions were made and approved.

Motion

Councilmember Deuser moved that Council close the public hearing and direct administration to institute annexation proceedings to annex the following: Pheasant Run Section 1 (49.43 acres) and other acreage requested by the City (22.57 acres). C7a-81-018. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Deuser, Duncan, Goodman, Mullen, Mayor McClellan,
Mayor Pro Tem Trevino

Noes: None

Not in Council Chamber when roll was called: Councilmember Urdy

Motion

Mayor Pro Tem Trevino moved that the Council close the public hearing and direct administration to institute annexation proceedings to annex the following: Westcreek PH. III (19.77 acres) and other acreage requested by the City (17.23 acres). C7a-81-001. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Duncan, Goodman, Mullen, Mayor McClellan,
Mayor Pro Tem Trevino, Councilmember Deuser

Noes: None

Not in Council Chamber when roll was called: Councilmember Urdy

Motion

Mayor Pro Tem Trevino moved that the Council close the public hearing and direct administration to institute annexation proceedings to annex the following: Brodie Tract (79.77 acres) C7a-81-002. The motion, seconded by Duncan, carried by the following vote:

Ayes: Councilmember Mullen, Mayor McClellan, Mayor Pro Tem Trevino,
Councilmember Deuser, Duncan

Noes: None

Not in Council Chamber when roll was called: Councilmembers Urdy,
Goodman

Motion

Councilmember Mullen moved that the Council close the public hearing and direct administration to institute annexation proceedings to annex the following: Maple Run Section 3 and Maple Run Section 4 (98.69 acres). C7a-81-003. The motion, seconded by Mayor Pro Tem Trevino, carried by the following vote:

Ayes: Councilmember Mullen, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman

Noes: None

Not in Council Chamber when roll was called: Councilmember Urdy

Mayor McClellan announced Council would consider annexation of and directing the administration to institute annexation proceedings to annex the following:

2,771 acres of land to wit: (This acreage includes (1) and (2) on page 7)

- (1) Tract 1 - I.H. 35 Southeast Corridor
- Tract 2 - Onion Creek Development
(C7a-80-013 - 1,229 acres)

Mr. Lillie addressed Council as follows: "The City has a five mile extra territorial jurisdiction from the City limit line. Within that five mile area from the City limit line the City has several jurisdictions. One is subdivision control which is the sale of land for purpose of development must come into the Planning Commission, City of Austin, for approval within that five mile area. The Municipal Annexation Act also provides that requests for incorporation also must be submitted to the Planning Commission for consideration and request for annexation must be brought to Council. In 1980 the City received a request from citizens in the Creedmoor area to allow them to incorporate the area. Probably 90% of the Creedmoor request was within the City's five mile jurisdiction and therefore required consideration by the City Council. In December, 1980 the Council voted to deny the request for incorporation. The Statute also provides that as a second procedural step that the residents must then request annexation. That request was made to the City in March 1981 and the Statute provides within 6 months of that request, or September 17, that the City respond to that request. As part of the interest in the south part of the City, the Council authorized, through the adoption of the Williamson Creek Ordinance and the Bear Creek, Slaughter Creek Ordinances, and the Edwards Aquifer area interest with respect to water quality, the Council authorized that field notes be written to annex four highway corridors. One was 290 southwest to Oak Hill and then FM 1826 south of Oak Hill to the five mile jurisdiction of the City. The second was Brodie Lane down to Shady Hollow and third IH 35 down to the five mile jurisdiction. In the IH 35 authorization, Council asked that Onion Creek be included in that corridor for consideration. The Research and Budget Office with the assistance of City departments has completed a fiscal note which is in your packet and field notes have been published according to the statutory requirements.

Complimentary notices have been sent to property owners within the area effected. There are no required notices by State law but the Council does, as a matter of policy, request that property owners within the area effected on annexation initiated by the City receive notice of that action. Of the two we are considering today, only Creedmoor is critical with respect to time because Council must review and take action prior to September 17th. With respect to the IH 35 corridor and the Onion Creek proposal, the IH 35 corridor extends from our City limits to the edge of our five mile jurisdiction. It includes just over 500 acres of land, half of it in the public right of way of IH 35 and the other half in private land that extends 200 feet from the right of way line into the property. The area is 91% undeveloped. There are only about 40 people and 13 dwelling units and there are about 24 acres of non-residential land use along the highway corridor, about 9 acres of commercial use and 16 acres of industrial use. The state law requires a minimum corridor of annexation of this type be 500 feet and this corridor is probably 600-800 feet in width. Onion Creek is a developing subdivision with over 700 acres of land included and 500 homes, with 1200 people. Over 50% of the land is already developed." Mr. Lillie pointed out the fiscal notes contain responses from all effected departments. "While the figures show a positive fiscal picture, the cost of providing or upgrading the water and wastewater system is still under question and those were the costs estimated to be the highest. ... The Planning Commission felt there was still information they lacked regarding the City's responsibility for operating the private wastewater system and because the question was there the Commission felt the Onion Creek annexation should not proceed at this time."

Dr. Tim McCloud appeared before Council to oppose annexation. He said he raises crops on his land.

Charles S. Nichols, representing the Herman F. Heep Estate and Mrs. Herman F. Heep, said the Heep family has owned the property south of Onion Creek on both sides of Highway 35 and both sides of FM 1327 since 1934. They have beef cattle on the ranch and other ranchers in the area benefit from their breeding and meat. He protested the City of Austin taking any of their property to annex the City of Creedmoor.

Barry Allison, Onion Creek Development Company, asked why there is a rush to annex the property. He said there still are a lot of questions to be answered.

Albert Nicks, representing himself and his wife, lives on 1427 and object to annexation. He said it would take their farm land. He said if the City takes them in then the City should be prepared to provide them with every amenity.

Timothy Wise said the Council has talked about nothing but no-growth, therefore it would hypocritical to annex Onion Creek.

Motion

Councilmember Mullen made a motion, seconded by Mayor McClellan to close the public hearing, direct the administration to institute annexation proceedings to annex Tract 1 - IH 35 Southeast corridor.

Substitute Motion (Made and Withdrawn)

Councilmember Duncan made a substitute motion to not proceed further with this annexation. After discussion he withdrew his substitute motion.

Friendly Amendment

Councilmember Duncan offered a friendly amendment to not proceed with further consideration of Tract 2 - Onion Creek Development. His amendment was accepted.

Councilmember Mullen said that ultimately everyone who lives near Austin and receives City services should be willing to be annexed and pay taxes because he said Onion Creek would not be in existence if it were not for Austin.

Mayor McClellan stated for the record: "I don't think we are ready to annex Onion Creek. I think timing is very important. I am a great believer in annexation and I am going to state why for the record and maybe answer a question for the gentleman who stood up here. Of course, I am not usually considered a no growther but I am, I hope, considered a responsible growther. I don't want Austin, Texas to end up like our sister cities in the northeast and midwest...we don't even have to look that far to see cities that are ringed with incorporated communities like Dallas, Houston, and Fort Worth. I think one of the great strengths is Texas Municipal Annexation Act. I think the valid reasons for annexing are twofold. One is for development control purposes so that when you get out and annex that you don't have to annex a lot of Burnet Road strips, etc. Onion Creek is a very fine development and there is not that problem there. Second, the purpose for annexing is to keep our tax base healthy which is of course what the Councilman was speaking to, so you don't end up with a doughnut effect as to many of our sister cities have where everybody is working in the city and living outside the city. Along with the annexing to keep the tax base healthy you have to also look at the fiscal impact and that is where we have a lot of question marks with Onion Creek. Obviously we do not have the information we need but I think there are very valid reasons for annexing and not to be ringed by incorporated communities. But I think it must be done in a responsible manner at the right time and I do not think the time is right for Onion Creek."

Roll Call on Motion with Friendly Amendment

Roll Call on Motion with Friendly Amendment to not proceed with further consideration of Tract 2 - Onion Creek Development showed the following vote:

Ayes: Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman, Mullen

Noes: None

Not in Council Chamber when roll was called: Councilmember Urdy

Mayor McClellan announced Council would now consider annexation and directing the administration to institute annexation proceedings to annex the following:

- (2) Tract 1 - 500 ft. Corridor on F.M. 1327 to connect I.H. 35 Corridor
- Tract 2 - Creedmoor
(C7a-81-008 - 1,542 acres)

Mr. Lillie addressed Council, describing Creedmoor as a rural area which is agricultural in nature with scattered families and no significant development planned for the near future. 94% of the 1500 acres are undeveloped. Creedmoor is too far away for coverage with city services and the City should be able to establish services more conducive to a rural area but not full services. The Planning Commission considered annexation at their July 14 meeting and the concensus was Creedmoor should not be annexed. The staff recommendation, Mr. Lillie said, referring to what he called Mayor McClellan's "sound statement" is that they feel uncomfortable watching new incorporations. He said the City should protect its interests and have room to grow. The Planning Department recommended to the Planning Commission to proceed with annexation.

Councilmember Deuser asked about releasing Creedmoor without an ETJ. Mr. Albert DeLaRosa said the City of Austin would have to release some of its ETJ.

Don Bird, representing residents of Creedmoor, said part of the incorporation is outside the ETJ of Austin. He said they need to have a public election out there before they have an opportunity to incorporate. He said it is a community which is over 100 years old and is not a bedroom community. Since it is in Growth Area V there are no libraries or parks projected for it. It is too far out to be served by the Police and Fire Departments. EMS could not serve it and the water and wastewater is a question. He said Austin cannot serve Creedmoor without major expenditures and Creedmoor is no threat to the City.

August 17, 1981

~~CITY OF AUSTIN, TEXAS~~

Charles S. Nichols appeared and said they have acreage on both sides and it will cost the City a lot of money to buy their 6" pipeline.

Mr. Martin said the land is for farming and grazing and thinks it would be very expensive for Austin to put water and wastewater down the highway.

Alvie Clark owns 7 acres of good hunting land. He said they do not need Austin's water and electricity and they already have a good fire department.

George Simms said they want to maintain their historical heritage and do not want to incur added costs.

Dirk Ballast told the Council Austin cannot live without communities like Creedmoor.

Councilmember Mullen stated Creedmoor is different than Onion Creek and what he said about Onion Creek does not pertain to Creedmoor.

James Hudnell said he wants to be able to continue his way of life.

Howard Alexander asked Council not to annex Creedmoor. He said he has lived there 45 years and they are in no way a threat to Austin.

Cole McClellan said he is not a Creedmoor resident but he is against spending money for their annexation.

Jane Boring, who operates the postal system in Creedmoor, is against annexation.

Donnal Bellis has four children and does not want to live in the city.

Martha Cleve wondered if Austin also intends to grow into Hays and Bastrop counties.

Joe Click said they are trying to preserve their community and take care of themselves.

Jess Ramsey said he does not live there but has a place there he wants to live in some day. He said most of the money in the area is from farming.

Discussion among Council followed concerning a limited ETJ. Councilmember Deuser suggested allowing Creedmoor to incorporate without an ETJ of their own.

A woman who did not identify herself said she has lived on 1327 corridor since 1945 and does not want to be part of Austin although she is a Federal employee and buys all goods and services from Austin.

Ellie Hernandez is a resident of Creedmoor who does not want to be annexed.

Motion

Councilmember Goodman moved that the Council close the public hearing. The motion was seconded by Councilmember Duncan.

Mayor McClellan said she thought the Council should give some direction. Councilmember Mullen said this is different from a bedroom community and is too expensive to annex.

Motion Withdrawn

Councilmember Goodman and Councilmember Duncan withdrew their motion and second.

Motion

Councilmember Mullen made a motion not to annex Creedmoor but restrict the City of Creedmoor to no larger than two square miles.

Councilmember Goodman asked Councilmember Mullen to re-state the motion.

Motion Re-Stated

Councilmember Mullen made a motion to (1) extend the City of Austin city limits down IH 35 to completely take in Creedmoor.

Strike and Insert

Councilmember Deuser offered a friendly amendment for staff to proceed with annexation in the nearest fashion that would allow Austin to encircle Creedmoor. Councilmember Mullen accepted the friendly amendment.

Mr. Albert DeLaRosa said, "To the extent they would not have an ETJ". Councilmember Mullen said "But then proceed to have an agreement with them that they would not desire to have an ETJ and not have a negative motion about not annexing. Just let that lie.

Second to Motion

Councilmember Deuser seconded the motion.

Councilmember Mullen said, "That is a motion, sort of, to not annex you all. What it is is a motion to annex enough to encircle you with our ETJ only and then we get an agreement...who do we get an agreement from?" Councilmember Duncan asked "Isn't that part of the consent for incorporation?" Mr. Albert DeLaRosa said, "We could come up with an incorporation agreement." Mr. Don Bird said "You can put reconsideration of our incorporation on your Agenda in a week or two and place conditions at that point."

Councilmember Mullen stated, "Whatever it takes to get the job done is my motion."

Mayor McClellan said, "I think what we are really doing is giving directions to staff to come back with whatever we need to do which even separate and apart from incorporation, if we are out there annexing we can make moot the issue on ETJ."

Councilmember Urdy asked Councilmember Mullen to clarify his question.

Motion Restated

Councilmember Mullen stated, "The motion is to try and come back to us by January with whatever is necessary to annex enough property to be sure Creedmoor is fully surrounded by our ETJ and then when they come in for incorporation that they agree not to have an ETJ."

Mayor McClellan said, "The gist of it is we are not annexing Creedmoor but we are surrounding them and protecting ourselves."

Councilmember Mullen said, "We can still then go on and in 30-40 years from now we have passed them up, well we just have passed them up."

Roll Call on Motion Re-Stated

Roll Call on Motion re-stated showed the following vote:

Ayes: Councilmembers Duncan, Mullen, Urdy, Mayor McClellan, Councilmember Deuser

Noes: None

Abstain: Councilmember Goodman

Not in Council Chamber when roll was called: Mayor Pro Tem Trevino

Motion

Councilmember Deuser made a motion to instruct staff not to proceed with annexation proceedings of Tract 1 - 500 ft. Corridor on F.M. 1327 to connect I.H. 35 Corridor.

Mr. Lillie said, "Part of your earlier motion is to come back with some options on how we might extend the ETJ and the extension may apply to part of 1327 but we will come back to you on that report in the next week or two and let you make whatever choice you want."

Motion Withdrawn

Councilmember Deuser withdrew his motion.

ADJOURNMENT

Council adjourned its meeting at 6:10 P.M.

APPROVED

Carol Keeter McElle
Mayor

ATTEST:

Grace Monroe
City Clerk